No. 89-1030

(4)

FILED

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JOSEPH F. SPANIOL, JR.
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In The

Supreme Court of the United States

October Term, 1989

GWENDOLYN BROWN,

Petitioner,

v.

JAMES G. LEDBETTER,

Respondent.

APPENDIX OF RESPONDENT IN OPPOSITION TO THE PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

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APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JOY D. WEHUNT, Plaintiff vs. JAMES G. LEDBETTER, in his capacity as Commissioner of the Georgia Department of Human Resources, and MARGARET M. HECKLER, in her capacity as Secretary of the United States Department of Health and Human Services, Defendants	CIVIL ACTION NO. C85-2891A

COMPLAINT
(Filed May 9, 1985)
PRELIMINARY STATEMENT
-1-

Plaintiff JOY D. WEHUNT seeks declaratory and injunctive relief for violations of her civil rights under Title IV of the Social Security Act, 42 U.S.C. Sections 601 *et seq.* (hereinafter, "title IV-A), and 651 *et seq.* (hereinafter, "Title IV-D"). The Title IV-A program provides federal funds to participating states for the provision of financial assistance to families whose available income and resources are insufficient to meet costs of necessary living

expenses. The Title IV-D program provides for the establishing paternity of children; locating absent parents; and obtaining child support for the children of absent parents.

-2-

Plaintiff alleges that Defendant Ledbetter has failed in his obligations under the provisions of the Act to establish paternity on her child's behalf; to collect child support; and to locate the absent parent of her child. Plaintiff further alleges that Defendant Ledbetter has adopted a definition of "child support" which imposes requirements beyond that of Title IV-A, with the result that amounts paid to Plaintiff by the absent parent of her child have been determined to be a mere "contribution" and not "child support" and thus not entitled to the $50.00 child support disregard established by Title IV-A. Plaintiff alleges that Defendant Heckler has failed in her duty to oversee the operation of state plans under Titles IV-A and IV-D and to ensure that Defendant Ledbetter complies with the conditions of participation by the State of Georgia in the AFDC program.

-3-

Plaintiff seeks declaratory and injunctive relief for Defendants' failure to meet their obligations to Plaintiff under Titles IV-A and IV-D to establish paternity of her child and to assist Plaintiff in securing child support from the absent parent of her child; and for Defendant Ledbetter's promulgation of policies under the Georgia AFDC program which are contrary to and in excess of the authority granted by the Act. Plaintiff further seeks

declaratory and injunctive relief with regard to Defendant Heckler's failure to properly oversee Defendant Ledbetter's operation of the AFDC program in the State of Georgia according to the requirements of Title IV-A.

JURISDICTION
-4-

This Court has jurisdiction of this matter by virtue of 28 U.S.C. Section 1331, in that it is an action arising under the laws of the United States. Plaintiff's claims are authorized by 42 U.S.C. Section 1983; declaratory relief is sought pursuant to 28 U.S.C. Sections 2201 and 2202.

VENUE
-5-

Venue properly lies in this District pursuant to 28 U.S.C. Section 1391.

PARTIES
PLAINTIFF
-6-

Plaintiff is a resident and a citizen of Georgia and of the United States. She is the mother of two minor children, both of whom were eligible for benefits under the AFDC program at the time this cause of action arose.

DEFENDANTS
-7-

Defendant James G. Ledbetter, Ph.D., is Commissioner of the Georgia Department of Human Resources. Pursuant to Acts of the State of Georgia, 1972, p. 1015

(O.C.G.A. Section 49-2-1), Defendant Ledbetter has the responsibility to supervise, direct, account for, organize, plan, administer and execute the functions of the Georgia Department of Human Resources. At all times relevant hereto, Defendant Ledbetter was in the exercise of his official duties.

-8-

Defendant MARGARET M. HECKELR is the Secretary of the United States Department of Health and Human Services. As Secretary, she is charged with the federal administration and operation of the Title IV-A program; for adopting and implementing AFDC policies, rules, and regulations which must comply with controlling federal statutes; and for overseeing the states' operation of AFDC programs. Pursuant to 42 U.S.C. Section 652, as amended, it is the duty of the Defendant Secretary to review and approve state plans for child support recovery and establishment of paternity and to evaluate the implementation of state programs established pursuant to these state plans. At all times relevant hereto Defendant Heckler was in the exercise of her official duties.

STATUTORY FRAMEWORK

-9-

The AFDC Program is a cooperative federal-state grant-in-aid program whereby the federal government contributes funds to be used by the states along with other state money to provide cash and other benefits to

families with dependent children. The rules and regulations which apply to states administering the Title IV-A program are set forth at 42 U.S.C. Section 601 *et seq.* and 45 C.F.R. Part 201 *et seq.*

-10-

In 1974, federal law respecting the enforcement and collection of child support from absent parents was designated Title IV-D of the Social Security Act. Title IV-D, the Federal Child Support and Establishment of Paternity Act, 42 U.S.C. Sections 651 *et seq.*, was subsequently amended to strengthen provisions regarding locating absent parents, establishing paternity and securing support for children. The regulations implementing the Title IV-D program are set forth at 45 C.F.R. Parts 301 *et seq.*

-11-

Under 42 U.S.C. Section 654, as amended, a state plan for child and spousal support must provide that the state will undertake to establish paternity for any child born out of wedlock, where there is an effective assignment of the right to support of a child receiving AFDC under 42 U.S.C. Section 602(a) (26).

-12-

By accepting public assistance on behalf of a child, an AFDC recipient in Georgia is required to make an assignment to the Department of Human Resources of the right to any child support owed to the child. 42 U.S.C. Section 602(a) (26); O.C.G.A. Section 19-11-7.

-13-

Section 2640 of the federal Deficit Reduction Act of 1984, P. L. 98-369 (hereinafter, "DEFRA"), provides that for purposes of calculating the amount of AFDC to which a family is entitled, the first $50 of any child support payments received by the family in any month should be disregarded. A copy of the relevant DEFRA sections is attached hereto as Exhibit "A", pages 1 and 2.

-14-

Defendant Ledbetter promulgated policies implementing DEFRA in Georgia Department of Human Resources Eligibility Services County Letter 84-44. A copy of the relevant page of Eligibility Services County Letter 84-44 is attached hereto as Exhibit "B".

-15-

Eligibility Services County Letter 84-44 provides for the $50 disregard to be applied to child support paid by an absent parent, whether the child support is paid directly to the AFDC recipient or to the state Office of Child Support Recovery (OCSR). The disregard applies only to "child support" and not to "contributions." Only money that is paid by either a "legally obligated parent" or "a natural father who signs a statement that he is the father of the child(ren) and there is no legal father involved" are considered "child support" under the definition adopted by Defendant Ledbetter. All other moneys are defined as "contributions" and thus not entitled to the $50 disregard.

FACTUAL ALLEGATIONS

-16-

Plaintiff Joy D. Wehunt is the mother of two children. The older of these children was receiving AFDC at the time Plaintiff became pregnant with her second child.

-17-

Plaintiff's second child, Tiffany Wehunt, was born out of wedlock; paternity of this child has never been established by a court of law or by acknowledgement of paternity.

-18-

Approximately three months prior to the birth of her second child, Plaintiff swore out an abandonment warrant against Bruce Burch, who fathered the child she was carrying. Burch was arraigned in State Court in Stephens County, Georgia, on or about October 1, 1983, and pleaded not guilty.

-19-

Upon Burch's request, the state court judge ordered that the human leukocyte antigen (HLA) blood test be performed on Burch; the Plaintiff herein; and the minor child fathered by Burch. The HLA test was scheduled by court order for June 5, 1984.

-20-

After the birth of the child Tiffany on December 3, 1983, Plaintiff requested that the child be added to her AFDC grant.

-21-

As a condition of receiving AFDC for this child, Plaintiff was required to assign her rights to child support from Tiffany's father to the State of Georgia. Plaintiff signed an application for AFDC which stated in part:

> "I understand that Georgia Law requires the Department of Human Resources to take necessary action to establish paternity and collect child support money from responsible absent parents . . . I further understand that by the act of accepting public assistance I am assigning any right I have to child support monies to the Division of Family and Children Services. I know that action to collect child support from the absent parent will be taken with or without my permission. . . ."

-22-

During the spring of 1984, Burch agreed to begin paying child support to Plaintiff for Tiffany if Plaintiff would agree to dismissal of the abandonment warrant against him.

-23-

Tiffany was removed from the AFDC grant group, at Plaintiff's request, once Burch began paying the child support.

-24-

On or about June 2, 1984, three days prior to the court-ordered HLA blood test, Burch paid the $55.00 accrued costs for dismissal of the Plaintiff's abandonment warrant against him.

-25-

On or about July 7, 1984, the Judge of the State Court of Stephens County, Georgia, signed an order of dismissal of Plaintiff's abandonment warrant upon motion of the State Court Solicitor.

-26-

Plaintiff requested the Franklin County Department of Family and Children Services to remove Tiffany from her AFDC grant once Burch began paying child support for Tiffany.

-27-

Burch paid to Plaintiff the sum of $20 per week for Tiffany's support and continued to pay this sum to Plaintiff through the month of September, 1984.

-28-

In September, 1984, the Franklin County Department of Family and Children Services (DFCS) advised Plaintiff that under Eligibility Services County Letter 84-44, the child Tiffany must be added to the AFDC grant and the

child support she received be counted in the budgeting of the AFDC amount.

-29-

The Franklin County DFCS also advised Plaintiff that $50 per month of the child support payments she was receiving could be disregarded for purposes of her AFDC grant amount.

-30-

The Franklin County DFCS also told Plaintiff that before she would be entitled to the $50 disregard, she would be required to secure a signed statement acknowledging paternity from the putative father who was paying the $20 per week support to Tiffany.

-31-

The Plaintiff asked Burch to sign such a statement but he refused to do so, and, furthermore, stopped making child support payments to Plaintiff in September, 1984.

-32-

Neither the Franklin County DFCS nor any other agency or agent of the Defendant Ledbetter or of the Georgia Department of Human Resources has taken appropriate action, legal or otherwise, to secure a determination of paternity of Plaintiff's minor child Tiffany or to secure child support.

-33-

Due to the AFDC budgeting process, which requires a determination of the amount of the current monthly grant based upon income received in the previous month, the Franklin County DFCS in October, 1984, notified Plaintiff that she had received an overpayment in AFDC benefits due to the refusal of the putative father to sign a statement admitting paternity.

-34-

Plaintiff has received no further child support from her child's father since his last payment in late September, 1984. On her own initiative, Plaintiff has since sworn out another abandonment warrant but does not know whether it has been served or otherwise disposed of.

-35-

Upon information and belief, Tiffany's father has moved from the geographic area in which Plaintiff resides but is residing in the State of Georgia.

-36-

The Franklin County DFCS is attempting to collect from Plaintiff the alleged AFDC overpayment from October, 1984.

-37-

Plaintiff has exhausted the administrative review process of the Georgia Department of Human Resources.

The decision of the Franklin County Department of Family and Children Services, finding an overpayment in Plaintiff's AFDC benefits, has been upheld by Defendant Ledbetter's hearing officer and hearing officer for final appeals.

-38-

Upon information and belief, Defendant Heckler failed to assure that the State of Georgia or Defendant Ledbetter complied with the regulations and statutory provisions governing Title IV-A.

-39-

Upon information and belief, Defendant Heckler failed to assure that the State of Georgia or Defendant Ledbetter complied with the regulations and statutory provisions governing Title IV-D.

CLAIMS FOR RELIEF
FIRST CLAIM – IV-D, STATUTE
-40-

Defendant Ledbetter has failed to undertake to establish the paternity or to seek and recover child support for the Plaintiff's child born out of wedlock, as required by 42 U.S.C. Sections 602(a) (26) and 654(4) (A).

SECOND CLAIM – IV-D, REGULATIONS
-41-

Defendant Ledbetter has failed to undertake to establish the paternity or to seek and recover child support for the Plaintiff's child born out of wedlock, as required by 45 C.F.R. Section 303.5.

THIRD CLAIM – IV-A, STATUTE

-42-

Plaintiff has a right to receive AFDC if eligible according to the conditions established under 42 U.S.C. Sections 601 *et seq.* and permissible conditions established pursuant thereto.

-43-

By instituting the policy set out in the aforementioned Eligibility Services County Letter, Defendant Ledbetter infringed upon the Plaintiff's rights, by depriving her of the benefit of the $50 disregard and further by wrongfully declaring her to have been overpaid for amounts that should have been disregarded pursuant to Title IV-A and DEFRA.

FOURTH CLAIM – IV-A, REGULATIONS

-44-

Plaintiff has a right to receive AFDC if eligible according to the conditions established under 45 C.F.R. Part 201 *et seq.* and permissible conditions established pursuant thereto.

-45-

By instituting the policy set out in the aforementioned Eligibility Services County Letter, Defendant Ledbetter infringed upon the Plaintiff's rights, by depriving her of the benefit of the $50 disregard and further by wrongfully declaring her to have been overpaid for amounts that should have been disregarded pursuant to Title IV-A and DEFRA.

FIFTH CLAIM – FUNDAMENTAL UNFAIRNESS

-46-

By requiring Plaintiff to assign to the State of Georgia and Defendant Ledbetter her right to child support monies collected from Tiffany's father, and by failing thereafter to take action to establish paternity and collect support for Tiffany, Defendant Ledbetter has impaired Plaintiff's right to receive support for her child.

-47-

Defendant Ledbetter's illegal definition of "child support," enacted pursuant to DEFRA, deprived Plaintiff of the $50 child support disregard provided by federal law, to its financial benefit, and to Plaintiff's financial detriment.

-48-

Defendant Ledbetter's actions were fundamentally unfair and, therefore, a denial of Plaintiff's right to due process of law, guaranteed to her through the Fourteenth Amendment to the United States Constitution.

SIXTH CLAIM – IV-A OVERSIGHT

-49-

Defendant Heckler's failure to assure that the State of Georgia and Defendant Ledbetter have complied with the regulations and statutory provisions governing Title IV-A has deprived the Plaintiff of rights accruing to her pursuant to 42 U.S.C. Sections 601 *et seq.* and 45 C.F.R. Part 201 *et seq.* 1984 amendments to the Act, by the State of Georgia.

SEVENTH CLAIM – IV-D OVERSIGHT
-50-

Defendant Heckler's failure to assure that the State of Georgia and Defendant Ledbetter have complied with the regulations and statutory provisions governing Title IV-D has deprived the Plaintiff of rights accruing to her pursuant to 42 U.S.C. Sections 651 *et seq.* and 45 C.F.R. Part 301 *et seq.*

EQUITY
-51-

As a result of Defendants' failure to comply with their obligations under the Social Security Act, Plaintiff has suffered severe and irreparable injury, in that Plaintiff has lost the regular payment of child support for Tiffany following Defendant Ledbetter's requirement that Plaintiff secure from Tiffany's father a signed statement acknowledging paternity, rather than initiating paternity and support recovery proceedings himself or through his agents against Tiffany's father. Plaintiff has suffered further injury in that she is without funds herself to retain counsel to initiate paternity proceedings on her behalf, and Defendant Ledbetter has failed to initiate such proceedings. Plaintiff has suffered further injury in that Defendant Ledbetter has denied that payments made for Tiffany's supportare child support, and Plaintiff has thus lost the benefit of the $50 disregard of child support established by federal law. Furthermore, Defendant Ledbetter is attempting to recover from Plaintiff an alleged overpayment of benefits which would not have occurred but for Defendant Ledbetter's illegal definition of "child support."

Plaintiff has no adequate remedy at law to redress the stated violations of her rights by Defendants. Plaintiff will continue to suffer irreparable harm unless and until the declaratory and injunctive relief sought herein by her is granted by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Joy D. Wehunt prays that this Court:

A. Assume jurisdiction of this action;

B. Declare that the acts and practices of Defendant Ledbetter in failing to initiate paternity and enforcement of support proceedings on Plaintiff's behalf have subjected Plaintiff to a deprivation of her rights under the Social Security Act, 42 U.S.C. Section 601 *et seq.*;

C. Declare that the acts and practices of Defendant Ledbetter in impositing additional requirements upon the definition of "child support" have subjected Plaintiff to a deprivation of her rights under the Social Security Act;

D. Declare that the acts and practices of Defendant Ledbetter in failing to notify Plaintiff of the result of her assignment of her rights to collect child support to the State of Georgia are fundamentally unfair to Plaintiff contrary to her rights under the Constitution of the United States;

E. Declare that the acts and practices of Defendant Heckler in failing to properly or adequately review and monitor the State of Georgia's operation of the child

support recovery program and the AFDC program, and have subjected Plaintiff to a deprivation of her rights under 42 U.S.C. Sections 601 *et seq.* and 651 *et seq.;*

F. Issue a preliminary and permanent injunction requiring Defendant Ledbetter to initiate and conclude paternity proceedings on behalf of Plaintiff's child Tiffany;

G. Issue a preliminary and permanent injunction requiring Defendant Ledbetter to initiate and conclude recovery of child support proceedings on behalf of Plaintiff's child Tiffany;

H. Issue a preliminary and permanent injunction requiring Defendant Ledbetter to refrain from attempting to collect from Plaintiff a claimed overpayment of AFDC benefits, or taking any future action against Plaintiff based upon Defendant Ledbetter's illegal definition of "child support";

I. Issue a preliminary and permanent injunction requiring Defendant Heckler to properly review, evaluate and supervise Defendant Ledbetter's actions under the Georgia Title IV-A (AFDC) program;

J. Issue a preliminary and permanent injunction requiring Defendant Heckler to properly review, evaluate and supervise Defendant Ledbetter's actions under the Georgia Title IV-D (Child Support Recovery) program;

K. Retain jurisdiction over Defendants until such time as the Court is satisfied that the practices, policies and omissions alleged herein are corrected and will not recur;

L. Assess all costs of this action against Defendants;

M. Award Plaintiff reasonable attorney's fees; and

M. Grant to Plaintiff such other and additional relief as this Court deems appropriate and just under the circumstances.

/s/ Kay A. Giese
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EXHIBIT "A"

* * *

PARENTS AND SIBLINGS OF DEPENDENT CHILD INCLUDED IN AFDC FAMILY; CHILD SUPPORT PAYMENTS

SEC. 2640. (a) Section 402(a) of the Social Security Act (as amended by section 2624 of this Act) is further amended–

(1) by striking out "and" at the end of paragraph (36);

(2) by striking out the period at the end of paragraph (37) and inserting in lieu thereof"; and"; and

(3) by inserting immediately after paragraph (37) the following new paragraphs;

"(38) provide that in making the determination under paragraph (7) with respect to a dependent child and applying paragraph (8), the State agency shall (except as otherwise provided in this part) include–

"(A) any parent of such child, and

"(B) any brother or sister of such child, if such brother or sister meets the conditions described in clauses (1) and (2) of section 406(a), if such parent, brother, or sister is living in the same home as the dependent child, and any income of or available for such parent, brother, or sister shall be included in making such determination and applying such paragraph with respect to the family (notwithstanding section 205(j), in the case of benefits provided under title II); and

"(39) provide that in making the determination under paragraph (7) with respect to a dependent child whose parent or legal guardian

is under the age selected by the State pursuant to section 406(a)(2), the State agency shall (except as otherwise provided in this part) include any income of such minor's own parents or legal guardians who are living in the same home as such minor and dependent child, to the same extent that income of a stepparent is included under paragraph (31).".

(b)(1) Section 457(b) of such Act is amended by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively, and by inserting immediately before the paragraph redesignated as paragraph (2) the following new paragraph:

"(1) the first $50 of such amounts as are collected periodically which represent monthly support payments shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;".

(2) Section 457(b) of such Act, as amended by paragraph (1) of this subsection, is further amended–

(A) by inserting "which are in excess of any amount paid to the family under paragraph (1) and" after "peridocially" in paragraph (2);

(B) by striking out "paragraph (1)" in paragraph (3) and inserting in lieu thereof "paragraph (2)"; and

(C) by striking out "paragraphs (1) and (2)" in paragraph (4) and inserting in lieu thereof "paragraphs (1), (2), and (3)".

(c) Section 402(a)(8)(A) of such Act is amended by striking out "and" after the semicolon at the end of clause (iv), and by adding after clause (v) the following new clause:

"(vi) shall disregard the first $50 of any child support payments received in such month with respect to the dependent child or children in any family applying for or receiving aid to families with dependent children (including support payments collected and paid to the family under section 457(b)); and".

* * *

EXHIBIT "B"

Fifty Dollar Child Support Disregard

CHILD SUPPORT DISREGARD

Beginning October 1, 1984, there will be a $50 disregard applied to child support paid by an absent parent(s). This disregard applies too both child support that is received by an A/R directly and child support that is paid to the Office of Child Support Recovery (OCSR). The $50 disregard is:

- Applied to total amount of the child support received by a family, regardless of the number of AP's that may be paying support.
- Applied prior to eligibility determination and grant determination; i.e., prior to the ceiling test.

This disregard *only* applies to child support, not contributions. *Child support* will be defined as any money that is paid by:

- A legally obligated parent; or
- A natural father who signs a statement that he is the father of the child(ren) and there is no legal father involved.

Contributions are any money that is paid by:

- A natural father when there is also a legal father; or
- A natural father when there is not a legal father, but the natural father has not signed a statement admitting paternity; or
- Another individual besides the parent who provides income to the A/R.

When the EW is verifying the amount of child support that is paid, if the support is not from a legally obligated parent, the EW should also get a signed statement from the parent admitting paternity. Without a signed statement, the support will be considered as a contribution and the $50 disregard will not apply. The EW should explain to the A/R the advantages of having the parent sign a statement of paternity.

This $50 disregard also applies to child support received by children in title IV-E Foster care

Procedure

A. *Direct Child Support or Budgeted Child Support Income* (BCSI)

For cases on retrospective budgeting, the $50 disregard will apply to the child support that was received by the recipient in August, 1984.

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

ATLANTA DIVISION

JOY D. WEHUNT, GWENDOLYN BROWN, and BRENDA WHITE, *et al.* Plaintiffs vs. JAMES G. LEDBETTER, in his capacity as Commissioner of the Georgia Department of Human Resources, and MARGARET M. HECKLER, in her capacity as Secretary of the United States Department of Health and Human Services, Defendants	CIVIL ACTION NO. C85-2891A

PLAINTIFF'S FIRST AMENDED COMPLAINT

Pursuant to F.R.C.P. Rule 15(a), Plaintiff JOY D. WEHUNT amends her complaint by substituting the following in its entirety for the complaint originally filed:

PRELIMINARY STATEMENT

-1-

This is an action on behalf of plaintiffs JOY D. WEHUNT, BRENDA WHITE, and GWENDOLYN BROWN, and the class they represent, who seek declaratory and injunctive relief for violations of their civil rights under Title IV of the Social Security Act, 42 U.S.C. Sections 601 *et seq.* (hereinafter, "Title IV-A), and 651 *et seq.* (hereinafter, "Title IV-D"). The Title IV-A program provides federal funds to participating states for the provision of financial assistance to families whose available income and resources are insufficient to meet costs of necessary living expenses. The Title IV-D program provides for establishing paternity of children; locating absent parents; and obtaining child support for the children of absent parents.

-2-

(a) Plaintiffs JOY D. WEHUNT and GWENDOLYN BROWN, and the class they represent, allege that Defendant Ledbetter has failed in his obligations under the provisions of the Act to establish paternity on behalf of their children, TIFFANY RENEE WEHUNT and KATEIA NICOLE PINKSTON.

(b) Plaintiffs JOY D. WEHUNT, GWENDOLYN BROWN, and BRENDA WHITE, and the class they represent, allege that Defendant Ledbetter has failed in his obligations under the provisions of the Act to collect child support from the absent parents of their children; and to locate the absent fathers of their children.

(c) Plaintiff JOY D. WEHUNT and the class she represents, further allege that Defendant Ledbetter has adopted a definition of "child support" which imposes requirements beyond that of Title IV-A, with the result that amounts paid to Plaintiff JOY D. WEHUNT and the class she represents, by absent parents of their children, have been determined to be mere "contributions" and not "child support" and thus not entitled to the $50.00 child support disregard established by Title IV-A.

(d) Plaintiffs JOY D. WEHUNT, BRENDA WHITE, and GWENDOLYN BROWN, and the class they represent, allege that Defendant Heckler has failed in her duty to oversee the operation of Georgia's state plans under Titles IV-A and IV-D and to ensure that Defendant Ledbetter complies with the conditions of participation by the State of Georgia in the AFDC program.

-3-

(a) Plaintiffs JOY D. WEHUNT and GWENDOLYN BROWN, and the class they represent, seek declaratory and injunctive relief for Defendants' failure to meet their obligations to Plaintiffs WEHUNT and BROWN, and the class they represent, under Titles IV-A and IV-D to establish paternity of certain of their children.

(b) Plaintiffs JOY D. WEHUNT, GWENDOLYN BROWN and BRENDA WHITE, and the class they represent, seek declaratory and injunctive relief for Defendants' failure to assist them in securing child support from the absent parents of their children.

(c) Plaintiff JOY D. WEHUNT and the class she represents, seek declaratory and injunctive relief for Defendant Ledbetter's promulgation of policies under the Georgia AFDC program which are contrary to and in excess of the authority granted by the Act.

(d) Plaintiffs WEHUNT, BROWN and WHITE, and the class they represent, further seek declaratory and injunctive relief with regard to Defendant Heckler's failure to properly oversee Defendant Ledbetter's operation of the AFDC program in the State of Georgia according to the requirements of Titles IV-A and IV-D.

JURISDICTION
-4-

This Court has jurisdiction of this matter by virtue of 28 U.S.C. Section 1331, in that it is an action arising under the laws of the United States. Plaintiffs' claims are authorized by 42 U.S.C. Section 1983. Declaratory relief is sought pursuant to 28 U.S.C. Sections 2201 and 2202.

VENUE
-5-

Venue properly lies in this District pursuant to 28 U.S.C. Section 1391.

PARTIES
PLAINTIFFS
-6-

Plaintiffs JOY D. WEHUNT is a resident and a citizen of Georgia and of the United States. She is the mother of

two minor children, both of whom were eligible for benefits under the Aid to Families with Dependent Children (AFDC) program at the time this cause of action arose.

-7-

Plaintiff GWENDOLYN BROWN is a resident and a citizen of Georgia and of the United States. She is the mother of three minor children, the oldest of whom was born out of wedlock. All three of Plaintiff GWENDOLYN BROWN'S minor children were eligible for benefits under the AFDC program at the time this cause of action arose.

-8-

Plaintiff BRENDA WHITE is a resident and a citizen of Georgia and of the United States. She is the mother of three minor children, all of whom were born while Plaintiff BRENDA WHITE was married to William H. White, although Plaintiff BRENDA WHITE's minor child MARK A. WHITE is not the natural child of William H. White. Plaintiff BRENDA WHITE receives child support from the father of MARK A. WHITE. Plaintiff BRENDA WHITE's two minor children SONJA D. WHITE and STEPHEN A. WHITE were eligible for benefits under the AFDC program at the time this cause of action arose.

DEFENDANTS

-9-

Defendant James G. Ledbetter, Ph.D., is Commissioner of the Georgia Department of Human Resources. Pursuant to Acts of the State of Georgia, 1972, p. 1015

(O.C.G.A. Section 49-2-1), Defendant Ledbetter has the responsibility to supervise, direct, account for, organize, plan, administer and execute the functions of the Georgia Department of Human Resources. At all times relevant hereto, Defendant Ledbetter was in the exercise of his official duties.

-10-

Defendant MARGARET M. HECKLER is the Secretary of the United States Department of Health and Human Services. As Secretary, she is charged with the federal administration and operation of the Title IV-A program; for adopting and implementing AFDC policies, rules, and regulations which must comply with controlling federal statutes; and for overseeing the states' operation of AFDC programs. Pursuant to 42 U.S.C. Section 652, as amended, it is the duty of the Defendant Secretary to review and approve state plans for child support recovery and establishment of paternity and to evaluate the implementation of state programs established pursuant to these state plans. At all times relevant hereto Defendant Heckler was in the exercise of her official duties.

STATUTORY FRAMEWORK

-11-

The AFDC Program is a cooperative federal-state grant-in-aid program whereby the federal government contributes funds to be used by the states along with other state money to provide cash and other benefits to

families with dependent children. The rules and regulations which apply to states administering the Title IV-A program are set forth at 42 U.S.C. Section 601 *et seq.* and 45 C.F.R. Part 201 *et seq.*

-12-

In 1974, federal law respecting the enforcement and collection of child support from absent parents was designated Title IV-D of the Social Security Act. Title IV-D, the Federal Child Support and Establishment of Paternity Act, 42 U.S.C. Sections 651 *et seq.*, was subsequently amended to strengthen provisions regarding locating absent parents, establishing paternity and securing support for children. The regulations implementing the Title IV-D program are set forth at 45 C.F.R. Parts 301 *et seq.*

-13-

Under 42 U.S.C. Section 654, as amended, a state plan for child and spousal support must provide that the state will undertake to establish paternity for any child born out of wedlock, where there is an effective assignment of the right to support of a child receiving AFDC under 42 U.S.C. Section 602(a)(26).

-14-

By accepting public assistance on behalf of a child, an AFDC recipient in Georgia is required to make an assignment to the Department of Human Resources of the right to any child support owed to the child. 42 U.S.C. Section 602(a)(26); O.C.G.A. Section 19-11-6.

-15-

Section 2640 of the federal Deficit Reduction Act of 1984, P. L. 98-369 (hereinafter, "DEFRA"), provides that for purposes of calculating the amount of AFDC to which a family is entitled, up to the first $50 of any child support payments received by the family in any month should be disregarded. A copy of the relevant DEFRA sections is attached hereto as EXHIBIT "A", pages 1 and 2.

-16-

Defendant Ledbetter promulgated policies implementing DEFRA in Georgia Department of Human Resources Eligibility Services County Letter 84-44. A copy of the relevant page of Eligibility Services County Letter 84-44 is attached hereto as Exhibit "B".

-17-

Eligibility Services County Letter 84-44 provides for the $50 disregard to be applied to child support paid by an absent parent, whether the child support is paid directly to the AFDC recipient or to the state Office of Child Support Recovery (OCSR). The disregard applies only to "child support" and not to "contributions." Only money that is paid by either a "legally obligated parent" or "a natural father who signs a statement that he is the father of the child(ren) and there is no legal father involved" are considered "child support" under the definition adopted by Defendant Ledbetter. All other moneys

are defined as "contributions" and thus not entitled to the $50 disregard.

CLASS ACTION ALLEGATIONS
-18-

Plaintiffs JOY D. WEHUNT, GWENDOLYN BROWN, and BRENDA WHITE bring this action on behalf of themselves, and, pursuant to Federal Rules of Civil Procedure 23(a) and (b)(2), and pursuant to Local Rule 220, on behalf of all other AFDC recipients similarly situated in the State of Georgia. The plaintiff class is composed of past, present and future AFDC recipients in Georgia whose receipt of AFDC benefits is based upon the absence from the household of parents of minor children in the household.

The plaintiff class consists of three subclasses:

(a) The first, represented by plaintiff JOY D. WEHUNT, is composed of all AFDC recipients past, present or future, who, since August 1, 1984, have received or are receiving monetary payments from the absent parents of their minor children, for whom no court finding or acknowledgement of paternity exists, but who have been denied the $50.00 child support disregard mandated by DEFRA pursuant to Defendant Ledbetter's policy as expressed in County Letter 84-44.

(b) The second, represented by plaintiff JOY D. WEHUNT and GWENDOLYN BROWN, is composed of all AFDC recipients, present or future, who are mothers of minor children included in plaintiffs' AFDC grants but born out of wedlock, for whom Defendants have failed to secure a determination of paternity since January, 1984,

due to Defendants' policies and practices regarding the establishment of paternity for children on AFDC.

(c) The third, represented by plaintiffs JOY D. WEHUNT, GWENDOLYN BROWN, and BRENDA WHITE, is composed of all AFDC recipients, present or future, who are parents of minor children included in plaintiffs' AFDC grants, on whose behalf paternity is established but for whom no support order has been secured since January, 1984, due to Defendants' policies and practices regarding the collection of child support for children on AFDC.

Each of the subclasses is so numerous that joinder of all members of each class is impractical. The present number of class members in each of the subclasses set forth above is unknown although Plaintiffs estimate it is in the hundreds or possibly thousands. The precise number of members in each subclass, and the identities and locations of members of the subclasses, are within the exclusive knowledge and control of Defendants. The representative parties will fairly represent and adequately protect the interests of members of each subclass as a whole, in that the claims of the representative parties are typical of those of the class as a whole. The representative parties are represented at no cost by counsel who have had extensive experience in the areas of law at issue in this litigation.

The questions of fact are generally common to each subclass. To the extent that there are factual differences, common questions of fact predominate. The claims of the named plaintiffs as to each subclass are typical of the claims of all members of each subclass in that:

(a) As to the first subclass, plaintiff AFDC recipients are being denied the $50.00 child support disregard solely due to Defendant Ledbetter's policy as expressed in Eligibility Services County Letter 84-44;

(b) As to the second subclass, plaintiff AFDC recipients have minor children whose paternity Defendants have failed to establish or have failed to diligently seek to establish, despite Defendants' statutory and regulatory obligation to do so;

(c) As to the third subclass, plaintiff AFDC recipients have minor children who are entitled to support from absent parents but Defendants have failed to secure or diligently seek to secure support from such absent parents, despite Defendants' statutory and regulatory obligation to do so.

The class action procedure is superior to other available methods for the fair and efficient adjudication of the controversies relevant to each subclass as a whole.

The defendants have acted or refused to act on grounds generally applicable to each subclass, thereby making appropriate final declaratory and corresponding injunctive relief with respect to each subclass as a whole.

FACTUAL ALLEGATIONS

-21-

Plaintiff JOY D. WEHUNT is the mother of two children. The older of these children was receiving AFDC at the time Plaintiff became pregnant with her second child.

-22-

Plaintiff's second child, Tiffany Wehunt, was born out of wedlock; paternity of this child has never been established by a court of law or by acknowledgement of paternity.

-23-

Approximately three months prior to the birth of her second child, Plaintiff WEHUNT swore out an abandonment warrant against Bruce Burch, who fathered the child she was carrying. Burch was arraigned in State Court in Stephens County, Georgia, on or about October 1, 1983, and pleaded not guilty.

-24-

Upon Burch's request, the state court judge ordered that the human leukocyte antigen (HLA) blood test be performed on Burch; Plaintiff WEHUNT; and the minor child fathered by Burch. The HLA test was scheduled by court order for June 5, 1984.

-25-

After the birth of the child Tiffany on December 3, 1983, Plaintiff WEHUNT requested that the child be added to her AFDC grant.

-26-

As a condition or receiving AFDC for this child, Plaintiff WEHUNT was required to assign her rights to child support from Tiffany's father to the State of Georgia. Plaintiff WEHUNT signed an application for AFDC which stated in part:

> "I understand that Georgia Law requires the Department of Human Resources to take necessary action to establish paternity and collect child support money from responsible absent parents . . . I further understand that by the act of accepting public assistance I am assigning any right I have to child support monies to the Division of Family and Children Service. I know that action to collect child support from the absent parent will be taken with or without my permission. . . ."

-27-

During the spring of 1984, Burch agreed to begin paying child suport to Plaintiff WEHUNT for Tiffany if Plaintiff WEHUNT would agree to dismissal of the abandonment warrant against him.

-28-

Tiffany was removed from the AFDC grant group, at Plaintiff WEHUNT's request, once Burch began paying the child support.

-29-

On or about June 2, 1984, three days prior to the court ordered HLA blood test, Burch paid the $55.00 accrued costs for dismissal of Plaintiff WEHUNT's abandonment warrant against him.

-30-

On or about July 7, 1984, the Judge of the State Court of Stephens County, Georgia, signed an order of dismissal of Plaintiff WEHUNT's abandonment warrant upon motion of the State Court Solicitor.

-31-

Plaintiff WEHUNT requested the Franklin County Department of Family and Children Services to remove Tiffany from her AFDC grant once Burch began paying child support for Tiffany.

-32-

Burch paid to Plaintiff WEHUNT the sum of $20 per week for Tiffany's support and continued to pay this sum to Plaintiff through the month of September, 1984.

-33-

In September, 1984, the Franklin County Department of Family and Children Services (DFCS) advised Plaintiff WEHUNT that under Eligibility Services County Letter 84-44, the child Tiffany must be added to the AFDC grant and the child support she received be counted in the budgeting of the AFDC amount.

-34-

The Franklin County DFCS also advised Plaintiff WEHUNT that $50 per month of the child support payments she was receiving could be disregarded for purposes of her AFDC grant amount.

-35-

The Franklin County DFCS also told Plaintiff WEHUNT that before she would be entitled to the $50 disregard, she would be required to secure a signed statement acknowledging paternity from the putative father who was paying the $20 per week support to Tiffany.

-36-

Plaintiff WEHUNT asked Burch to sign such a statement but he refused to do so, and, furthermore, stopped making child support payments to Plaintiff WEHUNT in September, 1984.

-37-

Neither the Franklin County DFCS nor any other agency or agent of the Defendant Ledbetter or of the Georgia Department of Human Resources has taken appropriate action, legal or otherwise, to secure a determination of paternity of Plaintiff WEHUNT's minor child Tiffany or to secure child support.

-38-

Due to the AFDC budgeting process, which requires a determination of the amount of the current monthly grant based upon income received in the previous month, the Franklin County DFCS in October, 1984, notified Plaintiff WEHUNT that she had received an overpayment in AFDC benefits due to the refusal of the putative father to sign a statement admitting paternity.

-39-

Plaintiff WEHUNT has received no further child support from her child's father since his last payment in late September, 1984. On her own initiative, Plaintiff WEHUNT has since sworn out another abandonment warrant but does not know whether it has been served or otherwise disposed of.

-40-

Upon information and behalf, Tiffany's father has moved from the geographic area in which Plaintiff WEHUNT resides but is residing in the State of Georgia.

-41-

The Franklin County DFCS is attempting to collect or has collected from Plaintiff WEHUNT the alleged AFDC overpayment from October, 1984.

-42-

Plaintiff WEHUNT has exhausted the administrative review process of the Georgia Department of Human Resources. The decision of the Franklin County Department of Family and Children Services, finding an overpayment in Plaintiff WEHUNT's AFDC benefits, has been upheld by Defendant Ledbetter's hearing officer and hearing officer for final appeals.

-43-

Upon information and belief, Defendant Heckler failed to assure that the State of Georgia or Defendant Ledbetter compiled with the regulations and statutory provisions governing Title IV-A.

-44-

Upon information and belief, Defendant Heckler failed to assure that the State of Georgia or Defendant Ledbetter compiled with the regulations and statutory provisions governing Title IV-D.

PLAINTIFF GWENDOLYN BROWN

-45-

Plaintiff GWENDOLYN BROWN's oldest child, KATEIA NICOLE PINKSTON, was born out of wedlock on January 22, 1977.

-46-

Kateia Nicole Pinkston's father is Clyde Baker, Jr., who, upon information and behalf, resides in Stephens County, Georgia. Plaintiff GWENDOLYN BROWN believes that Clyde Baker, Jr., has not ever been determined, by judicial action or otherwise, to be the father of Kateia Nicole Pinkston.

-47-

Plaintiff GWENDOLYN BROWN married Jerry Blane Brown on April 12, 1977.

-48-

Two children were born to plaintiff GWENDOLYN BROWN and Jerry Blane Brown: Crystal Sabrina Brown, born January 4, 1979; and Jeriquces Blane Brown, born November 1, 1980.

-49-

Plaintiff GWENDOLYN BROWN was divorced from Jerry Blane Brown by order of the Superior Court of Franklin County, Georgia, on November 23, 1982. Jerry

Blane Brown was ordered, in the final judgment and decree of divorce, to pay plaintiff GWENDOLYN BROWN the sum of $20.00 per week for each of the children Crystal Sabrina Brown and Jeriquces Blane Brown.

-50-

The absent fathers of Plaintiff BROWN's children are not paying support on behalf of their children and have failed to do so in the past.

-51-

Plaintiff GWENDOLYN BROWN began receiving AFDC on behalf of Kateia during calender year 1978, for Crystal Sabrina Brown in approximately December, 1979, and for Jeriquces Blane Brown after his birth in November, 1980.

-52-

As a condition of receiving AFDC for Kateia Pinkston, and for Crystal Sabrina and Jeriquces Blane Brown, Plaintiff GWENDOLYN BROWN was required to assign her rights to child support from the children's fathers to the State of Georgia. Plaintiff GWENDOLYN BROWN signed applications for AFDC which stated in part:

> "I understand that Georgia law requires the Department of Human Resources to take necessary action to establish paternity and collect child support money from responsible absent parents . . . I further understand that by the act of accepting public assistance I am assigning

any right I have to child support monies to the Division of Family and Children Services. I know that action to collect child support from the absent parent will be taken with or without my permission. . . ."

-53-

Despite repeated requests by Plaintiff BROWN to OCSR and to other agents and employees of Defendant Ledbetter, no action, or no adequate or effective action, has been taken to locate the absent fathers of Plaintiff BROWN's children, to determine paternity of Plaintiff BROWN's child Kateia Nicole Pinkston or to collect child support from the fathers of Plaintiff BROWN's children.

-54-

Because of the failure of Defendant Ledbetter and his agents or employees in the Child Support Recovery Unit and Child Support Enforcement Division, and even though she is a current AFDC recipient, Plaintiff BROWN has been forced to retain counsel to bring contempt proceedings against Jerry Blane Brown. Such proceeding are pending in the Superior Court of Franklin County, Georgia.

-55-

Upon information and belief, Defendant Heckler failed to assure that the State of Georgia or Defendant Ledbetter complied with the regulations and statutory provisions governing Title IV-D with regard to Plaintiff GWENDOLYN BROWN.

PLAINTIFF BRENDA WHITE

-56-

Plaintiff BRENDA WHITE is the mother of three minor children, SONJA, STEPHEN and MARK WHITE.

-57-

Plaintiff WHITE's minor children SONJA and STEPHEN WHITE are the natural children of Plaintiff WHITE's marriage to WILLIAM HENRY WHITE. Plaintiff WHITE has a child, STEPHAINE WHITE, who is the child of William Henry White but who is an adult.

-58-

Plaintiff WHITE's minor child MARK WHITE was born during Plaintiff WHITE's marriage to William Henry White but is the natural child of Bobby L. Abrams, who pays the sum of $15.00 per week toward the support of MARK WHITE.

-59-

Plaintiff WHITE separate from William Henry White in approximately June, 1968, and for the second and final time during 1969. Plaintiff WHITE's marriage to William Henry White, to the best of Plaintiff WHITE's knowledge and belief, has not been dissolved by divorce or otherwise.

-60-

Upon information and belief, Plaintiff WHITE's husband William Henry White has never been ordered by any court of competent jurisdiction to pay support for his children.

-61-

Plaintiff WHITE began receiving AFDC in the State of Georgia in approximately 1969.

-62-

Plaintiff WHITE received AFDC intermittently in Fulton and DeKalb Counties, State of Georgia, before moving to Clarke County, Georgia, in approximately June, 1983.

-63-

Plaintiff WHITE has received AFDC benefits for SONJA and STEPHEN WHITE in Clarke County, Georgia, since on or about February, 1984.

-64-

As a condition of receiving AFDC for her children, Plaintiff WHITE was required to assign her rights to child support from the father of SONJA and STEPHEN WHITE to the State of Georgia. Plaintiff WHITE signed an application for AFDC which stated in part:

> "I understand that Georgia Law requires the Department of Human Resources to take necessary action to establish paternity and collect child support money from responsible absent

parents . . . I further understand that by the act of accepting public assistance I am assigning any right I have to child support monies to the Division of Family and Children Services. I know that action to collect child support from the absent parent will be taken with or without my permission. . . ."

-65-

When Plaintiff WHITE first applied for AFDC in the State of Georgia, she provided information to employees or agents of DHR on the wherabouts of William Henry White, so that child support could be sought from him.

-66-

On the occasion of each of Plaintiff WHITE's subsequent applications for AFDC in the State of Georgia, Plaintiff WHITE was asked to provide, to employees or agents of DHR, information on the whereabouts of William Henry White, for the purpose of securing child support.

-67-

Plaintiff WHITE has provided to employees or agents of DHR all information she had on the whereabouts of William Henry White, including his last known address; the names and addresses of his relatives; his Social Security number; and his probable whereabouts.

-68-

Plaintiff WHITE does not know the present whereabouts of William Henry White.

-69-

Since her 1969 separation from William Henry White, Plaintiff WHITE has received only the sum of $200.00 from William Henry White towards the support of Plaintiff WHITE's children by William Henry White.

-70-

Despite repeated requests by Plaintiff WHITE to OCSR and to other agents and employees of Defendant Ledbetter, no action, or no adequate or effective action, has been taken to locate the absent father of Plaintiff WHITE's children, or to collect child support from the father of Plaintiff WHITE's children.

-71-

Upon information and belief, Defendant Ledbetter, and his agents and employees, failed to take any, or any effective, steps to locate William Henry White or to obtain child support for Plaintiff WHITE's children by William Henry White.

-72-

Upon information and belief, Defendant Heckler failed to assure that the State of Georgia or Defendant Ledbetter complied with the regulations and statutory

provisions governing Title IV-D with regard to Plaintiff BRENDA WHITE.

CLAIMS FOR RELIEF

FIRST CLAIM – IV-D, STATUTE

ESTABLISHMENT OF PATERNITY AND CHILD SUPPORT RECOVERY

-73-

Defendant Ledbetter has failed to undertake to establish the paternity or to seek and recover child support for the children born out of wedlock of Plaintiff WEHUNT and BROWN, and for members of the class they represent, as required by 42 U.S.C. Sections 602(a)(26) and 654(4)(A).

SECOND CLAIM – IV-D, REGULATIONS

ESTABLISHMENT OF PATERNITY AND CHILD SUPPORT RECOVERY

-74-

Defendant Ledbetter has failed to undertake to establish the paternity or to seek and recover child support for the children born out of wedlock of Plaintiffs WEHUNT and BROWN, and for members of the class they represent, as required by 45 C.F.R. Section 302.31(a)(1).

THIRD CLAIM – IV-D, STATUTE

CHILD SUPPORT RECOVERY

-75-

Defendant Ledbetter has failed to undertake to seek and recover child support for the children of Plaintiffs BROWN and WHITE and for members of the class they represent, as required by 42 U.S.C. Sections 602(a)(26), 602(a)(27), and 654(4)(B).

FOURTH CLAIM – IV-D, REGULATIONS

CHILD SUPPORT RECOVERY

-76-

Defendant Ledbetter has failed to undertake to seek and recover child support for the children of Plaintiffs BROWN and WHITE, and for members of the class they represent, as required by 45 C.F.R. Section 302.31(a)(2).

FIFTH CLAIM – IV-A, STATUTE

-77-

Plaintiff WEHUNT and members of the class she represents have a right to receive AFDC if eligible according to the conditions established under 42 U.S.C. Sections 601 *et seq.* and permissible conditions established pursuant thereto.

-78-

By instituting the policy set out in the aforementioned Eligibility Services County Letter, Defendant Ledbetter infringed upon the rights of Plaintiff WEHUNT and members of the class she represents, by depriving them of the benefit of the $50 disregard and further, with regard to Plaintiff WEHUNT, by wrongfully declaring her to have been overpaid for amounts that should have been disregarded pursuant to Title IV-A and DEFRA.

SIXTH CLAIM – IV-A, REGULATIONS

-79-

Plaintiff WEHUNT and members of the class she represents have a right to receive AFDC if eligible according to the conditions established under 45 C.F.R. Part 201 *et seq.* and permissible conditions established pursuant thereto.

-80-

By instituting the policy set out in the aforementioned Eligibility Services County Letter, Defendant Ledbetter infringed upon the rights of Plaintiff WEHUNT and members of the class she represents, by depriving them of the benefit of the $50 disregard and further, with regard to Plaintiff WEHUNT, by wrongfully declaring her to have been overpaid for amounts that should have been disregarded pursuant to Title IV-A and DEFRA.

SEVENTH CLAIM – FUNDAMENTAL UNFAIRNESS

-81-

By requiring Plaintiffs WEHUNT, BROWN and WHITE, and the classes they represent, to assign to the State of Georgia and Defendant Ledbetter their right to child support monies collected from the fathers of their children, by failing thereafter to take action to establish paternity and collect support for the children of Plaintiffs and the classes they represent, Defendant Ledbetter has impaired Plaintiffs' right to receive support for their children

-82-

Defendant Ledbetter's illegal definition of "child support," enacted pursuant to DEFRA, deprived Plaintiff WEHUNT, and the class she represents, of the $50 child support disregard provided by federal law, to its financial benefit, and to Plaintiff WEHUNT's financial detriment.

-83-

Defendant Ledbetter's actions were fundamentally unfair and, therefore, a denial to Plaintiffs WEHUNT, BROWN and WHITE, and the classes they represent, of the right to due process of law, guaranteed to them through the Fourteenth Amendment to the United States Constitution.

EIGHTH CLAIM – IV-A OVERSIGHT

-84-

Defendant Heckler's failure to assure that the State of Georgia and Defendant Ledbetter have complied with the regulations and statutory provisions governing Title IV-A has deprived Plaintiff WEHUNT, and the class she represents, of rights accruing to them pursuant to 42 U.S.C. Sections 601 *et seq.* and 45 C.F.R. Part 201 *et seq.* 1984 amendments to the Act, by the State of Georgia.

NINTH CLAIM – IV-D OVERSIGHT

-85-

Defendant Heckler's failure to assure that the State of Georgia and Defendant Ledbetter have complied with the regulations and statutory provisions governing Title IV-D has deprived Plaintiffs WEHUNT, BROWN and WHITE of rights accruing to them pursuant to 42 U.S.C. Sections 651 *et seq.* and 45 C.F.R. Part 301 *et seq.*

EQUITY

-86-

As a result of Defendants' failure to comply with their obligations under the Social Security Act, Plaintiffs WEHUNT and BROWN, and the class they represent, have suffered severe and irreparable injury. Plaintiff WEHUNT herself has lost the regular payment of child support for her children, with regard to Defendant Ledbetter's requirement that Plaintiff WEHUNT secure from

Tiffany's father a signed statement acknowledging paternity, rather than initiating paternity and support recovery proceedings himself or through his agents against Tiffany's father. Furthermore, Plaintiffs WEHUNT and BROWN have suffered severe and irreparable injury with regard to Defendant Ledbetter's failure to initiate paternity and support recovery proceedings himself or through his agents against the fathers of children of Plaintiffs WEHUNT and BROWN and the Plaintiff class they represent.

-87-

As a result of Defendants' failure to comply with their obligations under the Social Security Act, Plaintiffs WEHUNT, BROWN and WHITE, and the class they represent, have suffered severe and irreparable injury, in that Plaintiffs are without funds to themselves retain counsel to initiate paternity and support proceedings on their behalf, and Defendant Ledbetter has failed to initiate such proceedings. Plaintiff WEHUNT and the class she represents have suffered further injury in that Defendant Ledbetter has denied that payments made for support of their children are child support, the Plaintiff WEHUNT and the class she represents have thus lost the benefit of the $50 disregard of child support established by federal law. Furthermore, Defendant Ledbetter is attempting to recover or has recovered from Plaintiff WEHUNT an alleged overpayment of benefits which would not have occurred but for Defendant Ledbetter's illegal definition of "child support."

Plaintiffs have no adequate remedy at law to redress the stated violations of their rights by Defendants. Plaintiffs will continue to suffer irreparable harm unless and until the declaratory and injunctive relief sought herein by them is granted by this Court.

PRAYERS FOR RELIEF

WHEREFORE, Plaintiffs JOY D. WEHUNT, GWENDOLYN BROWN, and BRENDA WHITE, pray that this Court:

A. Assume jurisdiction of this action;

B. Determination pursuant to Rules 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure that this action be maintained as a class action;

C. Declare that the acts and practices of Defendant Ledbetter in failing to initiate paternity and enforcement of support proceedings on behalf of Plaintiffs WEHUNT and BROWN and the class they represent have subjected Plaintiffs WEHUNT and BROWN and the class they represent to a deprivation of their rights under the Social Security Act, 42 U.S.C. Section 601 *et seq.;*

D. Declare that the acts and practices of Defendant Ledbetter in failing to initiate enforcement of support proceedings on behalf of Plaintiffs BROWN and WHITE and the class they represent have subjected Plaintiffs BROWN and WHITE and the class they represent to a deprivation of their rights under the Social Security Act, 42 U.S.C. Section 601 *et seq.;*

E. Declare that the acts and practices of Defendant Ledbetter in imposing additional requirements upon the definition of "child support" for purposes of determining eligibility for the $50.00 child support disregard have subjected Plaintiff WEHUNT and the class she represents to a deprivation of their rights under the Social Security Act;

F. Declare that the acts and practices of Defendant Ledbetter in failing to notify Plaintiffs WEHUNT, BROWN and WHITE and the classes they represent of the result of the assignment of their rights to collect child support to the State of Georgia are fundamentally unfair to Plaintiffs WEHUNT, BROWN and WHITE, contrary to their rights under the Constitution of the United States;

G. Declare that the acts and practices of Defendant Heckler in failing to properly or adequately review and monitor the State of Georgia's operation of the child support recovery program and the AFDC program, and have subjected Plaintiffs WEHUNT, BROWN and WHITE to a deprivation of their rights under 42 U.S.C. Sections 601 *et seq.* and 651 *et seq.*;

H. Issue a preliminary and permanent injunction requiring Defendant Ledbetter to initiate and conclude paternity proceedings on behalf of the children of Plaintiffs WEHUNT and BROWN and members of the class they represent;

I. Issue a preliminary and permanent injunction requiring Defendant Ledbetter to initiate and conclude recovery of child support proceedings on behalf of Plaintiffs WEHUNT, BROWN and WHITE and the classes they represent;

J. Issue a preliminary and permanent injunction requiring Defendant Ledbetter to refrain from attempting to collect from Plaintiff WEHUNT a claimed overpayment of AFDC benefits, or taking any future action against Plaintiff WEHUNT based upon Defendant Ledbetter's illegal definition of "child support";

K. Issue a preliminary and permanent injunction requiring Defendant Heckler to properly review, evaluate and supervise Defendant Ledbetter's actions under the Georgia Title IV-A (AFDC) program;

L. Issue a preliminary and permanent injunction requiring Defendant Heckler to properly review, evaluate and supervise Defendant Ledbetter's actions under the Georgia Title IV-D (Child Support Recovery) program;

M. Retain jurisdiction over Defendants until such time as the Court is satisfied that the practices, policies and omissions alleged herein are corrected and will not recur;

N. Assess all costs of this action against Defendants;

O. Award Plaintiffs and the classes they represent reasonable attorney's fees; and

P. Grant to Plaintiffs and the classes they represent such other and additional relief as this Court deems appropriate and just under the circumstances.

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